

HB 102 – AS INTRODUCED – **RRD Amendment**

2009 SESSION

09-0340

06/10

HOUSE BILL **102**

AN ACT relative to the rivers management programs and the rivers coordinator.

SPONSORS: Rep. Kappler, Rock 2

COMMITTEE: Resources, Recreation and Development

ANALYSIS

This bill clarifies certain provisions of the rivers management and protection program, the membership on advisory committees, the duties of the rivers coordinator, and the funding of programs.

Explanation: Matter added to current law appears in ***bold italics***.

Matter removed from current law appears [~~in brackets and struck through~~].

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

Proposed amendment text

~~**Proposed amendment deleted text**~~

09-0340

06/10

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Nine

AN ACT relative to the rivers management programs and the rivers coordinator.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 Rivers Management and Protection Program; Statement of Policy. Amend RSA 483:1 to read as follows:

483:1 Statement of Policy. New Hampshire's rivers and streams comprise one of its most important natural resources, historically vital to New Hampshire's commerce, industry, tourism, and the quality of life of New Hampshire people. It is the policy of the state to ensure the continued viability of New Hampshire rivers as valued *ecologic*, economic, *public health and safety*, and social assets for the benefit of present and future generations. The state shall encourage and assist in the development of river corridor management plans and regulate the quantity and quality of instream flow along certain protected rivers or segments of rivers to conserve and protect outstanding characteristics including recreational, fisheries, wildlife, environmental, *hydropower*, cultural, historical, archaeological, scientific, ecological, aesthetic, community significance, agricultural, and public water supply so that these valued characteristics shall endure as part of the river uses to be enjoyed by New Hampshire people. ***If conflicts arise in the attempt to protect all valued characteristics within a river or stream, priority shall be given to those characteristics that are necessary to meet state water quality standards.***

Comment: Recommended by Steve Del Deo, NH Water Works Association.

2 New Paragraph; Definitions. Amend RSA 483:4 by inserting after paragraph XVI the following new paragraph:

XVI-a. "Restore" means return of an ecosystem to a close approximation of its natural condition.

3 Nomination; Criteria. Amend RSA 483:6, I to read as follows:

I. Any New Hampshire organization or resident may nominate a river or any segment or segments of such river for protection by submitting to the commissioner a description of the river or segment or segments of such river and its values and characteristics. The completed nomination shall be submitted to the rivers coordinator on or before June 1 in order for it to be considered in the next legislative session. This nomination shall include, but not be limited to, an assessment of fisheries; geologic and hydrologic features; vegetation; wildlife; historical and archaeological features; open space and recreation features and potential; water quality and quantity; dams, *hydropower generation*, buildings, and other manmade structures; riparian interests *and public water supply*, including flowage rights known by the nominating individual or group, and other pertinent instream and riverbank ~~and tributary drainage area~~ information. *The Department shall encourage the*

Comment: Recommended by Steve Del Deo, NH Water Works Association.

nominating party to include tributary drainage area information in the nomination.

Comment: Addresses Rep. Christensen's concerns with putting an additional burden on nominating groups.

The nominating party shall hold at least one public meeting on the information prior to final submittal to the commissioner. The nominating party shall advertise the meeting in cooperation with the rivers coordinator and shall give written notice to the governing body of any municipality where segments of the river are located. The rivers coordinator shall provide assistance to the nominating party in the presentation of the nomination at the public meeting.

4 Rivers Management Advisory Committee; Establishment. Amend the introductory paragraph of RSA 483:8 to read as follows:

483:8 Rivers Management Advisory Committee; Establishment. There is established a rivers management advisory committee appointed by the governor and council. ~~[At least 3 committee members shall represent the North Country and]~~ All members shall be New Hampshire residents ***and the department shall request that nominating organizations select nominees representing diverse geographic areas of the state.***

5 Rivers Management Advisory Committee; Establishment. Amend RSA 483:8, II-VI to read as follows:

II. The director of the office of energy and planning, the executive director of the fish and game department, the commissioner of resources and economic development, the commissioner of the department of transportation, ***the commissioner of the department of safety,*** and the commissioner of the department of agriculture, markets, and food or their designees shall serve as nonvoting members of the committee.

III. The terms of state agency members shall be the same as their terms in office. The members shall serve 3-year terms~~[-except that the terms of the initial members appointed under subparagraphs I(a), (d), and (g) shall be one year, and those appointed under subparagraphs I(b), (e), and (h) shall be 2 years].~~

IV. ***Any vacancy shall be filled in the same manner as the original appointment for the remainder of the unexpired term. Members shall may hold office until their successors are appointed and confirmed.***

Comment: RMAC recommended change 1/15/09

V. ~~[The commissioner shall convene the first meeting no later than September 15, 1988.]~~ The committee shall elect a chairman and vice chairman. Subsequent meetings shall be at the call of the chair, or at the request of 5 or more committee members. The rivers coordinator under RSA 483:3 shall serve as secretary and staff to the committee.

[V.] **VI.** The advisory committee shall **report biennially and** advise the commissioner [~~and~~], rivers coordinator, **state agencies, and the general court** in implementing the purposes of this chapter.

[VI.] **VII.** No state-owned property adjacent to or providing access to a river or river segment shall be recommended for disposal by the council on resources and development, **long range capital planning and utilization committee, or the governor and executive council** except upon the review and recommendation of the advisory committee established under this section.

VIII. When attending to the duties of the committee, appointed members of the committee shall be eligible to receive mileage at the state employee rate, within the limits of the department's appropriations.

6 Local River Management Advisory committees; Establishment; Duties.
Amend RSA 483:8-a, II and III to read as follows:

II. Each committee shall be composed of at least 7 members who represent a broad range of interests in the vicinity of the designated river or segment. These interests shall include, but not be limited to, local government, business, conservation interests, recreation, agriculture, and riparian landowners. If an interest is not represented by the local governing bodies' nominations, the commissioner may appoint a member from the vicinity of the designated river or segment, to the local river management advisory committee who will represent that interest. County commissioners shall be permitted to nominate members to the local river management advisory committee in unincorporated towns or unorganized places. **Upon the request of the committee, local governing bodies or county commissioners within tributary drainage areas may submit nominees for appointment.** Each member shall serve a term of 3 years.

III. The duties of such committees shall be:

(a) To advise the commissioner, the advisory committee, [~~and~~] the municipalities through which the designated river or segment flows, **and municipalities within tributary drainage areas** on matters pertaining to the management of the river or segment **and tributary drainage areas**. Municipal officials, boards, and agencies shall inform such committees of actions which they are considering in managing and regulating activities within designated river corridors.

(b) To consider and comment on any federal, state, or local governmental plans to approve, license, fund or construct facilities that would alter the resource values and characteristics for which the river or segment is designated.

(c) To develop or assist in the development and adoption of local river corridor management plans under RSA 483:10. The local planning board, or, in the absence of a planning board, the local governing body, may adopt such plans pursuant to RSA 675:6 as an adjunct to the local master plan adopted under RSA 674:4. No such plan shall have any regulatory effect unless implemented through properly adopted ordinances.

(d) To report [~~annually~~] **biennially** to the advisory committee and the commissioner, **and annually to municipalities** on the status of compliance with federal and state laws and regulations, local ordinances, and plans relevant to the designated river or segment [~~and~~], **its** corridor **and tributary drainage areas**.

Comment: DES recommended change to clarify that municipal reporting should still occur on an annual basis.

III-a. Local river management advisory committees may apply for and accept, from any source, gifts, grants, and other donations of money or services that directly assist the committee in meeting its duties, programs, and projects. The committees may, without further authorization, expend any funds so received to carry out their duties under this section.

7 Natural Rivers Protection. Amend RSA 483:9, III to read as follows:

III. No channel alteration activities shall be permitted[~~, except that~~]. The commissioner may approve [~~temporary~~] channel alterations [~~in conjunction with the repair or maintenance of a bridge, road, or riprap which is in place at the time a river or segment is designated.~~] **as follows:**

(a) Temporary channel alterations in conjunction with the repair or maintenance of a bridge, road, or riprap which is in place at the time a river or segment is designated; or

(b) Permanent alterations that restore the channel's geomorphic characteristics to its more natural condition.

8 Rivers Corridor Management Plans. Amend RSA 483:10, I to read as follows:

I. The rivers coordinator, with the cooperation and assistance of the office of energy and planning, shall develop detailed guidelines for river corridor management plans[~~, including but not limited to model shoreline protection ordinances. The rivers coordinator shall hold a public hearing regarding the proposed guidelines and model ordinances~~]. The rivers coordinator shall provide technical assistance to regional planning commissions, municipalities, and [~~river corridor commissions~~] **local river management advisory committees** and shall encourage the development and implementation of river corridor management plans.

9 New Paragraph; Rivers Corridor Management Plans. Amend RSA 483:10 by inserting after paragraph III the following new paragraph:

IV. State agencies shall collaborate with and assist the rivers coordinator and the local river management advisory committee in the development and implementation of river corridor management plans.

10 State Action; Notification of Rivers Coordinator; Petition for Review. Amend RSA 483:12-a, I to read as follows:

I. Any state agency considering any action affecting any river or segment designated under this chapter shall notify the rivers coordinator prior to taking any such action. Such agency shall forward to the rivers coordinator for review and comment copies of all notices of public hearings, or, where a public hearing is not required, a copy of the application for issuance of a permit, certificate, or license within the designated river or corridor under RSA 485-C, RSA 485-A, RSA 483-B, RSA 12-E, RSA 270:12, RSA 482, RSA 482-A, RSA 149-M, ***RSA 430***, or RSA 147-A. If an agency is notified by the rivers coordinator that a proposed activity would violate a protection measure under RSA 483:9, 483:9-a, 483:9-aa, or 483:9-b, such agency shall deny the application.

11 Rivers Management and Protection Fund Established. Amend RSA 483:13 to read as follows:

483:13 Acceptance and Expenditure of Funds.

I. The commissioner may apply for and accept, from any source, gifts; donations of money; grants; federal, local, private, and other matching funds and incentives; and interests in land for the purposes of this chapter. ***The moneys collected under this paragraph shall be deposited in the fund established under paragraph II.***

II. ~~[The rivers coordinator, with the approval of the commissioner and the advisory committee, may expend any funds received under paragraph I for the purposes of this chapter, and such funds are hereby appropriated.]~~ ***There is hereby established in the office of the state treasurer a fund to be known as the rivers management and protection fund. The fund shall be nonlapsing and continually appropriated to the commissioner for the purposes of this chapter.***

III. ~~[Local river management advisory committees may apply for and accept, from any source, gifts, grants, and donations of money. The committees may, without further authorization, expend any funds so received to carry out their duties pursuant to RSA 483:8-a.]~~ ***The commissioner rivers coordinator, with***

~~the approval of the commissioner and the advisory committee,~~ may expend any funds deposited in the rivers management and protection fund for the purposes of this chapter, and such funds are hereby continually appropriated.

Comment: DES recommended change.

IV. The ~~commissioner rivers coordinator~~ shall submit a biennial report by October 1 to the ~~general court~~ chairperson of the house resources, recreation and development committee, and the chairperson of the senate energy, environment and economic development committee summarizing all receipts and disbursements of the rivers management and protection fund, including a description of all projects or activities undertaken. Each report shall be in such detail with sufficient information to be fully understood by the general court and the public. After submission to the general court, the report shall be available to the public. ~~that documents the use of the rivers management and protection fund and the implementation of this chapter.~~

Comment: DES recommended change.

12 Disposition of State Property. Amend RSA 483:14 to read as follows:

483:14 Disposition of State Property.

I. No state-owned property adjacent to or providing access to a river shall be disposed of by the state except upon the review and recommendation of the advisory committee.

II. No state-owned property included in a long-range river management plan shall be disposed of by the state except upon the review and recommendation of the advisory committee ~~and shall be consistent with the long-range river management plan.~~

Comment: DES recommended change.

13 New Subparagraph; State Treasurer; Application of Receipts. Amend RSA 6:12, I(b) by inserting after subparagraph (276) the following new subparagraph:

(277) Moneys deposited in the rivers management and protection fund established in RSA 483:13.

14 Effective Date. This act shall take effect 60 days after its passage.